PATENT COOPERATION TREATY

PCT

Translation INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference									
345766/D20919	FOR FURTHER ACTION	See Form PCT/IPEA/416							
International application No.	International filing date (day/month/year)	Priority date (day/month/year)							
PCT/FR2004/000085	16.01.2004	17.01.2003							
International Patent Classification (IPC) or nati-									
A23L 1/30, A61K 35/78, A23L 1/30									
Applicant INSTITUT PHYTOCEUTIC									
1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.									
2. This REPORT consists of a total of	4 sheets, include	ling this cover sheet.							
3. This report is also accompanied by A	NNEXES, comprising:								
a. (sent to the applicant and	to the International Bureau) a total of	sheets, as follows:							
sheets of the descrip sheets containing re Instructions).	sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative								
sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental									
Box. b. (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s))									
, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see									
Section 802 of the Adminis	trative Instructions).	Fremount 2011 Remaining to Sequence Storing (see							
4. This report contains indications relati	ing to the following items:								
Box No. I Basis of the	e report								
Box No. II Priority									
Box No. III Non-estable	ishment of opinion with regard to novelty, inv	ventive step and industrial applicability							
Box No. IV Lack of uni	ity of invention								
Box No. V Reasoned s									
Box No. VI Certain doo									
Box No. VII Certain def	fects in the international application								
Box No. VIII Certain obs	Certain observations on the international application								
Date of submission of the demand	Date of completion of	f this report							
26-10-2004	i -	19-04-2005							
Name and mailing address of the IPEA/	Authorized officer								
Facsimile No.	Telephone No.								

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/000085

Box	No. I		Basis of the report			
1.	 With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item. 					
		This rep which is	oort is based on translations from the original languages the language of a translation furnished for the purpo	ge into the following languageoses of:	,	
] 1		ternational search (Rule 12.3 and 23.1(b))			
	ļ		ublication of the international application (Rule 12.4)			
	\\\/:+L		ternational preliminary examination (Rule 55.2 and/o	•		
2.	receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):					
	\boxtimes		rnational application as originally filed/furnished			
		pages	1-10		as originally filed/furnished	
		pages*		received by this Authority on	as originally illed/furnished	
		pages*				
	\boxtimes	the clai		The state of the s		
	K	nos.	14-22		on originally 61-4/6	
		nos.*			as originally filed/furnished	
		nos.*	1-13	-	r with any statement) under Article 19 28.10.2004 with the letter	
		nos.*			submitted on 28.10.2004	
		•	Winger	received by this Authority on		
		the dra	wings.			
					as originally filed/furnished	
		sheets*				
		sheets*		received by this Authority on		
			ence listing and/or any related table(s) - see Supplem	ental Box Relating to Sequence I	isting.	
3.	The amendments have resulted in the cancellation of:					
			he description, pages			
			he claims, nos.			
		<u> </u>	he sequence listing (specify):			
			any table(s) related to sequence listing (specify):			
4.		they ha	eport has been established as if (some of) the amend ave been considered to go beyond the disclosure as fi	led, as indicated in the Suppleme	ntal Box (Rule 70.2(c)).	
			the description, pages			
			the claims, nos.			
			the drawings, sheets/figs			
			the sequence listing (specify):			
			any table(s) related to sequence listing (specify):			
*	If ite	em 4 app	olies, some or all of those sheets may be marked "sup	perseded."		

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/FR2004/000085

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement				
1.	Statement			
	Novelty (N)	Claims	1-22	YES
		Claims		NO
	Inventive step (IS)	Claims	1-22	YES
		Claims		NO
	Industrial applicability (IA)	Claims	1-22	YES
		Claims		NO
I				

- 2. Citations and explanations (Rule 70.7)
 - 1. The amendments to claims 1 and 7 (1-13) submitted with the letter of 28 November 2004 are acceptable (PCT Article 34(2)(b)) (claims 7, 16 and 20; page 1, lines 8-9; page 3, lines 4-7; page 6, lines 16-18 of the original version).
 - In the present report, reference is made to the following document:

D1: US-A-6 022 718 (IWAI KAZUO ET AL) 8 February 2000 (2000-02-08).

The present application (claims 1-13 and 15-22) and document D1, which is considered to be the most relevant prior art, relate to thermogenesis-stimulating compositions based on capsaicinoids and a vegetable and/or mineral oil. Claim 1 suggests the use of vegetable and/or mineral oil in combination with a lipophilic additive that is solid or pasty at ambient temperature, in order to reduce the irritant effects of capsaicinoids on the gastric mucosa. None of the documents in the search report proposes the use of thermogenesis-

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International application No.
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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

stimulating compositions based on capsaicinoids and a vegetable and/or mineral oil in combination with a lipophilic additive that is solid or pasty at ambient temperature, in order to reduce the irritant effects of capsaicinoids on the gastric mucosa. It would not be obvious for a person skilled in the art to use, with a corresponding effect, the solutions proposed in claims 1, 15 and 19 (2-13, 16-18 and 20-22) of the present application.

None of the search report documents describes the composition in the form of soft capsules as per claim 14. The solution proposed in claim 14 of the present application is considered to be inventive to a person skilled in the art.

Claims 1-22 fulfil the PCT requirements of novelty and inventive step (PCT Article 33(2) and 33(3)).